



The Labor Advocate

The Labor Community's Source for Department of Labor News

Volume 2, Issue 1

Winter 2005-2006

Happy New Year!

Inside this issue:

WTU Officials Convicted	2
USERRA Regulations	3
Sham Union Must Pay Union Members	3
UIW Convention and Campus Tour	3
Form LM-30 Update	4
Labor Hall of Fame Induction	4
FOP Convention	5

Strong Economic News (January 2006 Data)

- 4.7% unemployment—the lowest monthly rate since July 2001 and lower than the average of the 1970s, 1980s and 1990s
- Over 2 million jobs created in 2005
- Construction spending rose in December to a record high of \$1.12 trillion
- Manufacturing activity grew for the 32nd consecutive month in January 2006
- Housing starts in 2005 rose to 2,065 million units—5.6% over 2004 and the highest level in over 30 years
- Consumer confidence is at its highest level in 3 years

DOL, Unions Help Hurricane Victims Rebuild

This past Fall, we came together as a nation to aid our neighbors in the Gulf Coast region who were impacted by the recent hurricanes. The outpouring of support from all over this country has been inspiring. The Department of Labor has been onsite in the Gulf Coast region, offering hope and a helping hand to those who need it most.

The Department reached out to the survivors of the hurricanes with immediate income support through unemployment insurance, disaster unemployment assistance, and over \$200 million in National Emergency Grants providing temporary jobs and employment and training assistance to

over 60,000 people affected by the hurricanes. The Department is supporting efforts in the Gulf Region to train and employ workers in critical industries such as construction, energy, health care, transportation and safety/security through training grants.

The Department awarded \$5 million in Susan Harwood

Training Grants for *Disaster Response and Recovery Training Grants* to provide critical health and safety training for workers who are engaged in disaster response, clean-up and rebuilding activities in the hurricane-impacted Gulf States region. Grant recipients include the Carpenters International Training Fund, the International Union of Operating

Engineers, the Finishing Trades Institute (Painters union), the Laborers-AGC Education and Training Fund, and the Utility Workers Union of America.

The grants will help train workers to avoid hazards related to confined spaces, electrical work, construction, hand and power tools,

(Continued on page 2)



During her three-day tour of the Gulf Coast region, Secretary Chao met with Hurricane victims at the Houston Astro Dome. (DOL Photo)

Supreme Court Rules For Poultry Workers

On November 8, in a unanimous decision, the U.S. Supreme Court agreed with the Department of Labor and meat and poultry workers that the time employees spend walking to their job stations after donning safety gear and return-

ing to the locker room before taking the gear off is compensable under the Fair Labor Standards Act.

The Court determined that the locker rooms where the special safety gear is donned and doffed is the relevant "place of perform-

ance" of the employees' principal activity and that walking from that place to another area within the plant immediately after the work-day has commenced is compensable.

The Court specifically ruled

(Continued on page 2)

...DOL Assists Displaced Workers After Hurricanes

(Continued from page 1)

heavy equipment operation, slips, trips and falls, mold, water contamination, respiratory, chemical and biological hazards, and animal and insect bites.

"These grants are being awarded to ensure that workers in the Gulf Coast cleanup and recovery efforts are operating in a safe and healthy environment," said Secretary of Labor Elaine L. Chao. "Much of the recovery work will involve heavy equipment and hazardous situations where the training these grants provide will enable workers to do their jobs more safely."

In September, Secretary Chao set out on a three-stop tour of the Gulf

Coast region devastated by Hurricane Katrina. She was joined by U.S. Treasury Secretary John W. Snow, U.S. Commerce Secretary Carlos M. Gutierrez, and Social Security Commissioner Jo Anne B. Barnhart in assessing the near- and long-term regional economic needs. They toured devastated areas and discussed assistance available



OSHA Compliance Safety and Health Officer performing air monitoring in the New Orleans area. (DOL Photo)

to individuals and small businesses in the region.

The Labor Department has a toll-free number (1-866-4-USA-DOL) and a Web site, www.dol.gov/opa/hurricane-recovery.htm, to help evacuees file unemployment insurance claims and access temporary and permanent job information.

The Labor Department's National Emergency Grants also will be used to create temporary jobs for demolition, renovation and reconstruction of destroyed public structures, facilities and lands in coordination with other agencies providing services to affected communities. Funding will support jobs that provide food, clothing, shelter and other humanitarian assistance for individuals struck by the disaster.

Washington Teachers Union Officials Convicted

This past Fall, in the U.S. District Court for the District of Columbia, James Baxter, former treasurer of the Washington Teachers' Union (WTU), and Gwendolyn Hemphill, former assistant to previously convicted WTU president Barbara Bullock, were found guilty on all counts after a jury trial lasting nearly three months.

Baxter and Hemphill were convicted of 23 counts each, including conspiracy,

embezzlement, mail fraud, wire fraud, money laundering, false statements on LM reports, and false union records. They are the last of eight individuals charged and convicted of embezzling approximately \$4.6 million from the WTU.

The wrongdoing was uncovered in 2002 when prosecutors were tipped off that union officials tried to deduct ten times the usual amount of dues from teachers' paychecks. They found that the union offi-

cials embezzled nearly \$4.6 million, spending the funds on fur coats, fashionable clothing, silverware, a champagne cooler, season tickets, and other luxury items.

Bullock reached a plea agreement and is serving nine years in prison. Hemphill and Baxter will be sentenced in the near future. This was a result of a joint investigation by the Labor Department, the FBI, and the U.S. Attorney's office.

...Walking Time Compensable, Says Supreme Court

(Continued from page 1)

that "any walking time that occurs after the beginning of the employee's first principal activity and before the end of the employee's last principal activity" is compensable under the Fair Labor Standards Act.

After the decision was announced,

Secretary Chao stated, "Today's unanimous Supreme Court decision in *IBP v. Alvarez* and *Tum v. Barber Foods* is a tremendous victory for low-wage workers across the country and the Department of Labor. The Supreme Court vindicated the department's position that employees in meat and poultry processing plants must be paid for the time they spend walking between the place where

they put on and take off protective equipment and the place where they process the meat. These private cases, in which the government filed amicus briefs, are the culmination of this Administration's initiative to compel poultry processors to pay their workers for all hours worked. We will now move ahead to assure that all affected companies pay their employees correctly."

Protecting Reemployment Rights of America's Service Members

On December 19th, the Department of Labor published regulations in the *Federal Register* interpreting the law that protects the employment and reemployment rights and benefits of service members upon their return to civilian life.

This is the first time since its passage in 1994 that the Department of Labor has developed regulations to explain and clarify the Uniformed Services Employment and Reemployment Act (USERRA). The Department's action is the latest in a series of proactive steps taken to ensure job

security for the largest group of mobilized National Guard and Reserve service members since World War II.



Secretary Chao announces new USERRA regulations as VETS Assistant Secretary Ciccolella, Gen. Bobby Hollingsworth (ret.), and Gen. David Wherley look on. (DOL Photo)

USERRA prohibits discrimination against past and present members of the uniformed services and establishes reemployment rights for service members who want to return to the jobs they held prior to service.

At the announcement, Secretary Chao stated, "Our citizen soldiers put themselves in harm's way to defend our freedoms, and now it's our turn to be there for them. These regulations provide comprehensive guidance on USERRA, which works to preserve the seniority, promotion,

(Continued on page 4)

Sham Union Must Pay \$11 Million To Union Members

The Department of Labor obtained a judgment requiring the Service and Business Workers of America Local 125, located in Juno Beach, Florida, to pay \$11 million in unpaid health claims owed to union members and their families. The judgment also bars the union from service as a fiduciary to any employee benefit plan in the future.

"This union local was a sham organization running a scheme that preyed on workers needing health care benefits," said Secretary of Labor Elaine L. Chao. "Our legal action in this case will restore money owed to the plan so that these workers and their families can count on their health care benefits in the future."

Under the order, the union local must transfer all its assets to the health fund. In addition, the court-appointed inde-

pendent fiduciary has authority to recover any assets available through various liability insurance policies.

Local 125 was a sham union that marketed health benefits to employers. At one time, the fund covered more than 3,700 participants in 41 states. States with the greatest volumes of unpaid claims are Illinois, Indiana, Missouri and Louisiana.

Secretary Chao Addresses UIW Convention, Tours Campus

Secretary Elaine L. Chao delivered the keynote address at the Union of Industrial Workers' Quadrennial Convention, which was held at the Seafarers' Paul Hall Center for Maritime Training and Education, located in Piney Point, Maryland.

Sec. Chao commended the union for its dedication to training and providing opportunities to young workers and people

of color. She also thanked those members who had served in the Armed forces, Reserves or National Guard.

Following her remarks, Secretary Chao toured the training center, including stops at the full mission bridge simulator, a water survival class, the manpower office and the fire fighting and safety school, located on a nearby campus. She was accompanied by UIW President Michael Sacco.



Secretary Chao meets with a student at the Paul Hall Center. (Photo courtesy of SIU)

...First-Ever USERRA Regulations Issued

(Continued from page 3)

health care, pension and other benefits of our citizen soldiers when they return home to the jobs they left to serve our country.”

Since Sept. 11, 2001, almost 532,000 citizen soldiers have been mobilized, and more than 404,000 of these National Guard and Reserve members have been demobilized.

The new regulations, drafted in an easy-to-read, question-and-answer format, explain how USERRA protects against discrimination and re-

taliation because of military service, prevents service members from suffering disadvantages due to performance of their military obligations, and affords them ample time to report back to jobs following completion of their service obligations.

The Department also announced publication of the final version of the notice it provides employers for use in informing employees of their rights, benefits and obligations under USERRA. The notice, downloadable posters containing the notice, and the new regulations can be accessed at www.dol.gov/vets.

In addition to the regulations, the Department of Labor has taken other steps since September 11, 2001, to reduce the rate of USERRA complaints, including:

- providing briefings and technical assistance to almost 307,000 service members and others on USERRA; and
- providing an interactive Web site at www.dol.gov/elaws/userra.htm.

Go to the Web site for more information.

DOL To Strengthen Union Conflicts-of-Interest Disclosure

Last Fall, the Department of Labor published a Notice of Proposed Rulemaking to update the Form LM-30, required by the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA).

The LM-30 disclosure form must be used by labor union officers and employees to report potential financial conflicts of interest. The com-

ment period ended on January 26, 2006.

Over a four-month period ending August 15, 2005, the Department of Labor extended a “grace period” for union officers and employees to comply with the

statutory LM-30 filing requirements and, in collaboration with the AFL-CIO and other unions, provided extensive compliance assistance on what financial activities and transactions are reportable. During the 120-day grace period, OLMS received more than 13,000 LM-30 submissions from union officers and employees, compared to just 60 to 90 LM-30s filed on an annual basis in past years.

(Continued on page 5)

Obtain Union Reports Online

union-reports.dol.gov

Peter Brennan Inducted Into Labor Hall of Fame



In December, Secretary Elaine L. Chao hosted the 17th Labor Hall of Fame induction ceremony, honoring Peter Brennan, former U.S. Secretary of Labor and former President of the Building and Construction Trades Council (BCTC) of Greater New

York. BCTC President Ed Malloy, Brennan's successor, made remarks on behalf of Brennan's induction.

The Labor Hall of Fame was founded in 1988 to honor posthumously those Americans whose distinctive contributions enhanced the quality of life for America's

workers. General Robert Wood Johnson, founder of the Robert Wood Johnson Foundation and son of a founder of Johnson & Johnson, was also inducted into the Hall of Fame at the ceremony.

Secretary Chao stated, “The Labor Hall of Fame memorializes those

(Continued on page 5)

...Form LM-30 Revisions Proposed

(Continued from page 4)

“Our cooperative compliance program and the proposed changes to the Form LM-30 will enhance union financial integrity for the benefit of union members, and will clarify the form for officers and employees to help them comply with the law,” said Victoria A. Lipnic, assistant secretary for employment standards. “By ensuring better disclosure of possible conflicts of interest, we are improving transparency and reducing the potential for financial misconduct.”

The Department’s Office of Labor-Management Standards (OLMS) has participated in a number of successful investigations of criminal misconduct that could have been deterred or de-

tected earlier by a more systematic disclosure of union officers’ and employees’ financial activities that present potential conflicts of interest with their official duties.

The Department also collected comments to a Request for Information on whether the Labor Department should issue guidelines on section 501(a) of the Labor-Management Reporting and Disclosure Act (LMRDA). Section 501 imposes a fiduciary obligation on officers, agents, shop stewards and other representatives of labor organizations.

To date, the Department has not, as a matter of policy, addressed what constitutes a breach of fiduciary duty under section 501 because legal remedies for such breaches must be initiated by individual union members rather than by the Department.

Proposed Update to Form LM-30

- Clarifies the instructions by explaining the key terms used in the LMRDA
- Provides examples of financial matters that must be reported
- Eliminates exemptions that permit filers to not report financial matters that would otherwise be required to be reported under the LMRDA
- Improves disclosure by creating a summary table on the front page of the report

For more information on the proposed update to Form LM-30, log onto www.dol.gov/esa/olms_org.htm.

...Building Trades President Honored

(Continued from page 4)

who have made significant contributions in making life better for American workers. These leaders we honor today, Secretary Brennan and General Johnson, were leading advocates for workers and their public, private and non-profit sector achievements are making a difference for working Americans.”

Peter Brennan was born in the Irish tenement neighborhood of New York

City known as Hell’s Kitchen. After high school he attended college part-time and worked as an apprentice painter. He joined Local 1456 of the Painters, Decorators and Paperhangers of America; eventually he rose to the position of president of the New York City Building and Construction Trades Council. Brennan served as Secretary of Labor under Presidents Nixon and Ford, from February 1973 to March 1975.

During Brennan’s tenure as Secretary of Labor, new laws were adopted to protect the pensions of millions of workers, and the employment rights of people with disabilities were greatly expanded. He reactivated the Federal Committee on Apprenticeship and appointed the first African American to serve on the committee.

For more information on the Labor Hall of Fame, log on to www.dol.gov/oasam/programs/laborhall.

Secretary Chao Addresses FOP Convention

Secretary Elaine L. Chao provided the keynote address at the Fraternal Order of Police (FOP) 57th Biennial National Conference. She commended the 5,000 members in attendance for keeping our neighborhoods safe and for protecting the homeland from terrorists.

The Secretary took the occasion to an-

nounce an upcoming \$10 million Department of Labor grant competition under the *President’s High Growth Job Training Initiative* to train workers for careers in homeland and cyber security.

“Homeland security is at the top of the President’s agenda and citizens’ concerns,” said Secretary Chao. “To make America safer, President Bush has

stressed the need for well-trained first responders and we are now including homeland security in the *President’s High Growth Job Training Initiative* to prepare more workers for these careers.”

In addition to addressing the needs of the homeland security industry, Secretary

(Continued on page 6)

U.S. DEPARTMENT OF LABOR LABOR LIAISONS

Suite S2018
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Phone: 202-693-6000
Fax: 202-693-6145
Web: <http://www.dol.gov/opa/laboradvocate>



United States Department of Labor

Visit us on the Web:
<http://www.dol.gov>



**March 1-2, 2006
Washington, D.C.**

National Summit Objectives

- ★ Advance the public's knowledge and understanding of retirement savings and its critical importance to the future well-being of workers and their families.
- ★ Facilitate the development of a broad-based, public education program to encourage and enhance individual commitment to a personal retirement savings strategy.
- ★ Develop recommendations for additional research, reforms and action in the field of private pensions and individual retirement savings.

For more information, log onto www.saversummit.dol.gov.

...FOP's 2005 Biennial National Conference

(Continued from page 5)

Chao stressed the Department's commitment to the Steve Young Memorial Scholarship Program. Through a \$3 million grant to the National FOP Foundation, spouses of fallen law enforcement officers have been able to provide for their families and carry on with their lives. The grant pays for education and job training, such as community college certification courses, four-year university degree programs, and customized on-the-job training.

Secretary Chao also thanked the FOP for its strong support for the men and women in the armed forces. The Secretary stated, "As you know, they put themselves on the line every day to defend our country's free-

dom and protect our security. Last year, I had the great privilege of visiting in Iraq with your President, Chuck Canterbury, and your Executive Director, Jim Pasco. We visited with our troops and were so impressed with the resolve and courage of the men and

women we met. They know their mission is noble. And they know that they may be called upon to make the ultimate sacrifice for their fellow soldiers and for their country. While they are doing the tough, difficult work of securing the country, they are also helping to build civil society in Iraq through so many good works...

"We also visited the Baghdad Police Academy. Chuck and I were both very impressed by the resolve of the recruits... They helped protect the eight million Iraqis who defied terrorists and voted in their first election as a free nation. How can anyone ever forget the inspiring sight of Iraqis displaying the ink on their fingers as a badge that they voted?"



Secretary Chao addresses the Fraternal Order of Police 57th Biennial Conference. (DOL Photo)